

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2021/62/92184/W

Site Address: adj, The Old Barn, Crosland Edge, Meltham,
Holmfirth, HD9 5RS

Description: Change of use of meadow to domestic garden,
engineering operations to form earth sheltered
garage, driveway and retaining structures

Recommending Officer: William Simcock

DECISION - REFUSED

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Teresa Harlow

AUTHORISED OFFICER

Date: 06-Aug-2021

Officer Report - 2021/92184

Adjacent to The Old Barn, Crosland Edge, Meltham

Site Description

The land comprises an area of steep banking located near the intersection of two tracks, both of which carry the route of a public right of way, consisting of long grass, small trees and other low-lying vegetation. The lower edge of the banking is to the south-west, the upper edge to the north-east. It lies towards the southern end of Crosland Edge, a small, dispersed hamlet in a rural setting.

Description of Proposal

The proposal is for change of use of meadow to domestic garden, engineering operations to form earth sheltered garage, driveway and retaining structures. "Change of use to domestic garden" did not form part of the applicant's description of development; this was added to the description at the validation stage since it was considered that the nature of the proposed works would represent a de facto change to domestic garden even if this was not the primary purpose.

It is proposed that an underground garage would be formed, measuring 6.0 by 8.0m, with its entrance facing west, and in front of this would be a 6m wide driveway surfaced in grasscrete paving which would curve around to the meet the lane on the southern side of the site. The sections show steep banking of earth reinforced retaining walls (about 60-70 degrees) either side of the driveway, and indicate that the site would be restored with earth, grass and vegetation after the building of the garage, with minimal or no net change in ground levels.

Relevant Planning History

2014/91806 – Change of use of meadow to garden, engineering operations to form garage, driveway and retaining walls. Withdrawn on officer's advice as was considered inappropriate development harmful to the Green Belt.

2014/92873 - Change of use of meadow to garden, engineering operations to form garage, driveway and retaining walls. Withdrawn. (This was on land to the north of the present application site.)

Representations

Final publicity date expires: 06-Aug-2021 (Publicity by site notice and press advertisement in addition to neighbour notification letters as the

proposal is deemed a departure from the development plan, would affect a public right of way)

- No representations received.

Meltham Town Council were consulted but did not respond.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- KC Planning Policy – Recommend refusal.
- KC Highways Development Management – Not enough information to make an informed assessment.
- KC Highway Structures – Object on the grounds of insufficient information.
- KC Ecology Unit – No response.
- KC Arboricultural Officer – No objection.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is within land designated as Green Belt on the Local Plan proposals map and is also within a Wildlife Habitat Network.

The lanes that border the site both carry the route of a public right of way.

Kirklees Local Plan:

LP 21: Highways and access

LP 24: Design

LP 30: Biodiversity and geodiversity

LP 33: Trees

LP 53: Contaminated and unstable land

LP 58: Garden extensions

Supplementary Planning Documents:

- KC Highways Design Guide 2019

The following SPDs were adopted on 29th June 2021 can be viewed on the council's website at <https://www.kirklees.gov.uk/beta/planning-policy/adopted-supplementary-planning-documents.aspx>:

- Housebuilders Design Guide Supplementary Planning Document
- House Extensions and Alterations Supplementary Planning Document
- Open Space Supplementary Planning Document

These are now a material consideration in the determination of planning applications.

The following two documents have also recently been approved by Cabinet and these can be viewed at: <https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx>

- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

These documents can also be viewed in [G:\Planning\SPDs & Guidance Notes](#).

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Section 12 – Achieving well-designed places.

Section 13 – Protecting Green Belt land.

Section 15 – Conserving and enhancing the natural environment.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Green Belt issues
- 3) Impact on visual amenity (including any heritage considerations)
- 4) Impact on residential amenity
- 5) Impact on highway safety
- 6) Other matters – e.g. trees/ecology (e.g. bats)
- 7) Representations
- 8) Conclusion

1 – Principle of development: The site is within the Green Belt on the Kirklees UDP Proposals Map. As such the proposal will be assessed having regard to NPPF part (13) which advises that planning authorities should ensure that “very substantial weight” is given to any harm to the Green Belt and that inappropriate development should not be approved unless very special circumstances can be demonstrated.

There is no Local Plan policy dealing specifically with new build or engineering operations within the Green Belt. However, Policy LP58 on

garden extensions in the Green Belt can be deemed relevant. Other policies to be considered are LP24 (visual and residential amenity), LP21 (highway safety), LP30 (biodiversity and geodiversity), LP33 (trees) and LP53 (contaminated and unstable land).

2 – Appropriateness within Green Belt: Within the Green Belt development is severely restricted and new buildings are considered to constitute inappropriate development unless they fall within one of the exceptions listed in paragraph 149-150 of NPPF. Paragraph 150 of NPPF states that “certain other forms of development are not inappropriate provided they preserve openness and do not conflict with the purposes of including land in the green belt”. Relevant to this proposal are 150(b) engineering operations (the drive, retaining structures and reconfigured slope) and 150(e) material changes in the use of land (meadow to domestic). The garage itself is could be considered either a building or engineering operation.

The applicant states that the proposed garage is to be constructed within banking formerly used for quarrying followed by the deposition of builder's rubble, meaning that it constitutes previously developed land. If this were to be the case, and if the garage were treated as a building rather than an engineering operation, the construction of the garage would fall to be considered under NPPF paragraph 150(g): the limited or partial redevelopment of previously developed land which would not have a greater impact on the openness of the green belt than the existing development. It is considered that this does not apply here since the land has become wholly revegetated to the extent that the sloped banking now appears as a natural piece of unmanaged countryside and not as derelict land or a spoil tip, and not within the definition of previously developed land contained in the glossary to the NPPF.

On this basis the garage, viewed as a building, does not fall within any of the exceptions in paragraph 150 of NPPF it therefore constitutes inappropriate development.

Assessing the garage and all associated works as an engineering operation, it is considered that resulting change in appearance and profile of the banking, despite the use of grassed over stabilised earth retaining structures and 'grasscrete' on the drive, would wholly alter the appearance of this part of the landscape from a natural/naturalised slope to an engineered slope. It would be a discordant feature in an area with an otherwise natural appearance with the result that the openness of the Green Belt would not be preserved. One of the purposes of the Green Belt is to safeguard the countryside from encroachment and the resultant urban features including driveway, engineered reinforced earth retaining slope and garage door would encroach upon the character of this part of the Green Belt, especially so as the lane is a public footpath meaning that the development will be highly visible from public vantage points. Given where it is proposed to be located there is also the potential for the development to be visible from long distance views and certainly from other footpaths in the vicinity. The change in use of land from

meadow to domestic would also extend the residential limits of this traditional and historic tight knit cluster of cottages and former barns beyond its current confines thereby encroaching into the countryside and contrary to the purposes of including land in the Green Belt as well as Policy LP58, noting that LP58 is somewhat out of date.

Inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm and very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other circumstances. The garage, driveway and retaining structures and change of use of land are considered to constitute inappropriate development for the reasons given above.

The supporting statement attempts to demonstrate very special circumstances, highlighting modifications that have been made from the two earlier proposals: stabilised earth retaining structures instead of stone walls; reduced use of grasscrete; smaller garage with timber-faced door. In essence, the applicants' claim for very special circumstances would appear to be on the basis that the development would be either largely hidden from view (the garage, except for the door) and overplanted with vegetation (the garage roof, retaining structures and use of grasscrete surfacing for the drive), so that the garage would offer only "minimal and fleeting views" to passers-by.

However the visual impact of a building or other development is only one consideration. When assessing impact on the openness of the Green Belt and the purposes of including land within it. While it may be the case that the body of the garage is within the banking, the necessary engineering to create retaining structures, the drive and the flat roof for the building, as well as the use of the drive by vehicles, would all have an impact on spatial openness where no impact currently exists and introduce urban features into a rural setting.

It is therefore considered that very special circumstances for allowing inappropriate development that is harmful to the Green Belt have not been demonstrated. On this basis refusal is recommended as contrary to the aims of NPPF Chapter 13.

3 –Impact on visual amenity: As previously stated, the development would introduce an alien and discordant element into a rural undeveloped setting, although it is noted that its impact would be mitigated by the garage and earth banking being seeded with meadow grass and native flower species. It is considered on balance that although it would have some impact on visual amenity this would not in itself amount to a reason for refusal were it not in the Green Belt.

4 – Impact on residential amenity: It is considered that no existing dwellings that are close enough to the site to be impacted by noise or to have their outlook, light or privacy.

5 – Impact on highway safety: The Highway Officer has not objected to the proposal in principle but has requested that a suitably scaled and dimensioned cross section of the proposal inclusive of the PROW/bridleway Meltham 19, in order to establish if a technical approval for the design of new structure is required, along with a scheme for the protection of the public rights of way and their users. It is considered that in the event of planning officers being minded to approve, these matters could be conditioned.

The development would cause no permanent obstruction to either of the two neighbouring public rights of way, and it is considered that future traffic associated with the use of the garage would not represent a material hazard to future users. It is therefore considered that it would, subject to the above matters being addressed or controlled by condition, accord with the aims of LP21.

6 – Other matters:

Ecology and trees:

It is considered that no valuable trees would be lost as a result of the development, and that in the event of an approval, a planting or seeding scheme could be conditioned in order to ensure the restoration of the site with an appropriate mix of species and to achieve a degree of biodiversity net gain.

Contaminated land:

The site is registered as potentially contaminated because of its former uses. In the event of an approval, suitable conditions on investigation and remediation could be imposed in accordance with the aims of LP53.

Climate Change:

On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target; however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda having regard to the “planning applications climate change guidance” June 2021.

In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to

address or combat climate change effects. Given the scale and nature of the proposal it is considered that it is unlikely to have a significantly negative impact and would not conflict with the above aims or those of NPPF Chapter 14., and that if officers were otherwise supportive of the scheme with the aims set out above, further information on construction and so forth could be sought.

7 – Representations: No representations have been made.

8 – Conclusion: The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that the application of policies within the NPPF that protect areas or assets of particular importance (Green Belt) provide a clear reason for refusing the development proposed..

Recommendation

Refuse

Decision Authorisation - Delegated Powers

Application Number: 2021/92184

Officer Recommendation: Refuse

Reason for refusal

The proposed engineering operations and change of use of land to domestic garden would give rise to a discordant appearance by introducing urban features into what is at present a natural and undeveloped setting, would lead to a loss of openness, and would conflict with the aims of including land within the Green Belt as set out in paragraph 138 (c) of the National Planning Policy Framework. The proposal would therefore be inappropriate development by its nature, contrary to the aims of paragraphs 149-150 of the National Planning Policy Framework and there are no very special circumstances justifying the development which would clearly outweigh the harm caused to the Green Belt by reason of inappropriate development or other identified harm.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			26-May-2021
Location plan	21.019(9-)001		26-May-2021
Grouped plans	21.019(2-)001		26-May-2021
Design and access statement			26-May-2021

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The applicant was not approached regarding amendments to the application since planning officers' concerns were related to the principle of the development more than the specifics and it was considered that these could not be overcome by amended or additional plans. For the reason set out in the reason for refusal the development would not improve the environmental conditions of the area.

Report dated:

04-Aug-2021
